

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States District Court
Southern District of Texas
ENTERED

FEB 25 2009

Michael N. Milby, Clerk of Court
By Deputy Clerk 

YOLANDA SALDIVAR, #733126

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v.

CIVIL ACTION NO. H-08-1026

NATHANIEL QUARTERMAN
DIRECTOR, TDCJ-CID

OPINION AND ORDER

Before the Court is Petitioner's "Objections to Magistrate Judge's Final Judgment" and Petitioner's "'Supplemental' to her Objections." (Docket Entry ("Doc.") Nos. 27 & 28). As a preliminary matter, since the parties consented to the jurisdiction of this Court (28 U.S.C. § 636 (c)), Petitioner's objections are misplaced. Notwithstanding, the Court considers Petitioner's objections and supplement to her objections (hereinafter referred to as "Petitioner's Motions") as a motion for reconsideration. FED. R. CIV. P. 59.

In Petitioner's Motions, she requests the Court reconsider the decision that her federal writ of habeas corpus is time barred and, in the alternative, reconsider the decision that she is not entitled to equitable tolling. Petitioner attaches numerous exhibits to her Motions which she contends support her position. However, reviewing Petitioner's Motions, along with her exhibits, only solidifies the Court's conclusion that Petitioner's federal writ of habeas corpus is time barred. Moreover, Petitioner's assertion that a state created impediment existed since the state never ruled upon her Article 11.07 state writ of habeas corpus, is simply unavailing. As discussed by this Court in its previous Order, there is simply no record that a state post-conviction

petition was ever actually filed on behalf of Petitioner, nor does Petitioner offer any competent summary judgment evidence of its filing. Finally, even considering Petitioner's Motions and the attached exhibits, the Court once again finds that no exceptional circumstances exist which would warrant equitable tolling in this case. The Court, therefore, concludes that Petitioner's Motions for reconsideration (Doc. Nos. 27 & 28) must be, and they are hereby, **DENIED**.

DONE at Brownsville, Texas, this 24th day of February, 2009.



JOHN R. FROESCHNER
UNITED STATES MAGISTRATE JUDGE